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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION TWO**

In re I. L., a Person Coming Under
the Juvenile Court Law.

B305117

(Los Angeles County
Super. Ct. No. 19LJJP00929B)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

M. L.,

Defendant and Appellant.

APPEAL from orders of the Superior Court of Los Angeles County. Steven E. Ipson, Juvenile Court Referee.

David M. Thompson, under appointment by the Court of Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, Kim Nemoy, Assistant County Counsel, and Kimberly Roura, Deputy County Counsel for Plaintiff and Respondent.

Appellant Moises L. (father) appeals from the order establishing dependency jurisdiction over his son Izel (born 2011) (minor) under Welfare and Institutions Code section 300, subdivision (b),¹ based on inappropriate discipline by minor's mother, Brenda A. (mother),² who struck the child; father's failure to protect minor from mother; and father's inappropriate and excessive physical discipline of minor, striking the child's mouth and causing the child to bleed. We affirm the juvenile court's order.

BACKGROUND

Detention and section 300 petition

The Los Angeles County Department of Children and Family Services (the Department) received a referral on September 25, 2019, that mother had struck minor with a plastic spatula on his neck, face, and head. The reporting party said father observed a scratch on the back of minor's neck, a bruise, and a bump on the head, none of which appeared to require medical attention. Minor disclosed a separate incident that occurred on September 4, 2019, when mother used a metal spoon to hit him "really hard" on the knee. Minor reported being afraid of mother.

In an October 2, 2019 interview, minor's teenage half-sibling, Ronald, told the investigating social worker that mother had not physically abused him or minor. Ronald accused father

¹ All further statutory references are to the Welfare and Institutions Code.

² Mother is not a party to this appeal.

of fabricating the incident and noted that father and mother had separated a month previously.

Father told the social worker on October 2, 2019, that he noticed minor's injuries two weeks ago. Mother had telephoned father, informing him that minor had run out of the home. When father arrived at the home to speak to minor, he noticed a red mark on the child's face and a bump on his head but concluded that the injuries did not require medical attention. Father subsequently learned from minor's therapist that mother had caused the child's injuries. Minor disclosed to the therapist that mother had hit him with a spoon. Father said he asked mother for full custody of minor but mother refused.

The social worker interviewed minor separately at father's apartment that same day. Minor said mother hits him with a spoon when he misbehaves. Minor recounted that on the day he received a flu shot, he ran away from the doctor and mother hit him on the back of his neck and on his knee. The social worker observed no marks or bruises on the child during the interview. Minor told the social worker he was afraid of mother, disliked living with her, and would prefer living with father.

Adult half-sibling Zahira C. told the Department that minor went back and forth between the parents' homes. She said both parents spanked minor when he misbehaved, but she was unaware of either parent hitting him with objects. Zahira said that father was manipulative and that both father and minor often lied. She said father criticized mother and her home and failed to discipline minor, leaving all disciplinary issues to mother.

Adult half-sibling Maria, who lived in the home with mother, minor, and Ronald, denied that minor was physically

abused and accused father of instructing minor to lie. She said when father lived in the home, he had been verbally abusive toward her, mother, and Ronald.

Minor's therapist told the Department that she was concerned about minor's safety and mother's ability to parent him. Minor had told the therapist that mother hit him with a spoon on more than one occasion and said he did not feel safe with mother. The therapist said she had no concerns about father, who appeared to understand minor and to be capable of parenting him.

Mother acknowledged that she had a previous child welfare case because of her alcohol use but said she had been sober since completing an alcohol treatment program and receiving mental health services. She denied all allegations of physical abuse and accused father of coaching minor to say he is being abused. She said minor began exhibiting negative behaviors when she and father separated. On one occasion minor had refused to get a flu shot and had run out of the doctor's office. On another occasion, minor ran out of the family's apartment. Mother said she had tried working with father to resolve minor's behavioral issues, but father would not cooperate. She said father does not discipline minor and denigrates mother and the siblings.

In subsequent interviews with the social workers, minor disclosed that father had hit him on the mouth, causing his nose to bleed. Minor had refused to do his homework and father struck him. He said the incident occurred at father's apartment and that no one else was present. Minor said it was a one-time incident and that he was not afraid of father.

Father admitted hitting minor. He said that when minor returned from mother's home, he was defiant and talked back.

Father said he hit minor on the mouth with his hand and that the child's "nose is sensitive and it did bleed." When the social worker pointed out that hitting the child was an inappropriate form of discipline, father interrupted to say, "It was only one time." He then proceeded to denigrate mother and stated that minor's behavior had improved since moving into father's home. The Department scheduled a forensic appointment for minor in November, but father did not keep the appointment.

On December 31, 2019, the Department filed a non-detain section 300 petition on minor's behalf alleging that the child was at risk of harm because of mother's physical abuse, father's failure to protect minor from mother, and father's physical abuse. The petition further alleged Ronald was at risk of harm because of the parents' abuse of minor.³

At a January 2, 2020 hearing, the juvenile court found father to be minor's presumed father and ordered minor released to both parents, with his primary residence in father's home. The court ordered the Department to assist the parents with a co-parenting schedule and to provide referrals for parenting classes and family counseling.

Jurisdiction and disposition

In its February 2020 jurisdiction/disposition report, the Department summarized further interviews it had conducted with the family members. Minor said he was in therapy for anger management. He stated: "I used to get mad, scream, and make holes in the walls. . . . When I was bad, my mom would hit me with a plastic spoon on my neck, leg, and knee, but only when I was bad. Sometimes I cried. I can't remember the last time she

³ Ronald is not a subject of this appeal.

hit me. I once saw my mom break a wooden spoon on Ronald, but I can't remember when it happened. I'm no longer afraid of my mom because now I'm nice to her."

As to father's alleged abuse, minor stated: "He hit me because I was screaming at him. He made my nose bleed. He hit me with an open hand in my mouth once. He hasn't hit me again. I'm not afraid of my dad."

Father said minor had told the therapist that mother hit him. He described minor's behavioral issues and said minor had been expelled from his elementary school. On one occasion mother telephoned father, informing him that minor was outside the family home and refusing to enter the home. When father arrived at the home, minor said he was afraid mother was going to hit him. Minor told father that mother had hit him with a spoon. Father told the social worker, "I confess, I was wrong by not reporting it. I did not take pictures of the marks. When [mother] lived in my house, [one] or [two] times I saw her hitting [minor] with her hand or with whatever she could find. [Mother] threatened [minor] with the spoon and would tell him bad words."

As to the allegations against him, father stated that minor was aggressive when the child returned from mother's home and began to scream. "I hit [minor] with open hand in the mouth once and [minor] began to bleed from his nose." "The child easily bleeds from the nose." "I did not take [him] to the doctor. I have never hit him with objects or called him bad words. The last time I hit [minor] was 6 months ago, with open hand on his butt over clothing."

Ronald told the social worker that minor "lied about being abused by my mom." Ronald said mother disciplines him by

taking away his X-Box. He said he was 10 years old the last time mother hit him, with her hand. Ronald then stated that he recalled mother hitting him with a spoon approximately seven years ago “as a form of discipline not abuse.” He denied seeing mother hit minor with a spoon.

Mother admitted hitting Ronald with her hand when he was in the second grade but denied hitting either Ronald or minor with a spoon. She accused both Ronald and minor of lying, “because I did not hit them with the spoon.” Regarding the allegations against father, mother said father admitted hitting minor. She stated: “When [minor] arrived home, I saw a bruise on his lip. [Father] has told me that he disciplines [minor] however he wants.”

Adult siblings Maria and Zahira both denied seeing mother physically abuse any of their siblings. Zahira stated, “I heard my mom hit [minor] once, slapping his hand with her hand when he was misbehaving.” Zahira said minor had told her that father instructed him to call Zahira the “B” word and not to talk to her. Zahira expressed frustration that the parents were “putting [minor] in the middle of their problems.”

Minor’s therapist said that minor had disclosed to her that mother hit him with a spoon, cutting the skin on his neck. She said she was seeing minor on a weekly basis at the time and did not see any marks or bruises on the child. The therapist noted that minor’s behavior had substantially improved after the child began spending more time with father.

Adjudication hearing

At the February 26, 2020 adjudication hearing, mother pled no contest to an amended petition under section 300, subdivision (b), stating that mother had inappropriately disciplined minor by

striking him, placing minor and Ronald at substantial risk of harm. The juvenile court rejected father's request to dismiss all of the allegations against him and sustained an amended petition, under section 300, subdivision (b), that states:

"b-1 On prior occasions, the children, Ronald []'s and [minor's] mother . . . inappropriately disciplined the child, [], by striking the child. The father . . . knew of the inappropriate discipline by the mother and failed to protect the child from the inappropriate discipline. Such inappropriate discipline of the child by the mother and the . . . father's failure to protect the child place the child and the child's sibling[] Ronald . . . at substantial risk of harm.

"b-2 On [a] prior occasion, the child, []'s father . . . inappropriately physically disciplined the child by striking the child's mouth, causing the child to bleed. Such inappropriate physical discipline was excessive and caused the child unreasonable pain and suffering. Such inappropriate physical discipline of the child by the father endangers the child's physical health and safety, and places the child at risk of serious physical harm, damage, danger, and physical abuse."

The juvenile court declared minor a dependent child and ordered him placed with both parents. The court ordered no corporal punishment and accorded family maintenance services for both parents. This appeal followed.

DISCUSSION

Father contends the evidence is insufficient to support the jurisdictional findings that he failed to protect minor from mother's inappropriate discipline or that his inappropriate physical discipline placed minor at substantial risk of serious physical harm. As we discuss, substantial evidence supports the jurisdictional findings.⁴

I. Justiciability

Because mother is not a party to this appeal, and there is no appellate challenge to the jurisdictional findings pertaining to her, we need not address the merits of father's appeal. "When a dependency petition alleges multiple grounds for its assertion that a minor comes within the dependency court's jurisdiction, a reviewing court can affirm the juvenile court's finding of jurisdiction over the minor if any one of the statutory bases for jurisdiction that are enumerated in the petition is supported by substantial evidence. In such a case, the reviewing court need not consider whether any or all of the other alleged statutory grounds for jurisdiction are supported by the evidence.' [Citation.]" (*In re I.J.* (2013) 56 Cal.4th 766, 773.) We nevertheless exercise our discretion to consider the merits of father's appeal.

II. Jurisdiction

A. Applicable law and standard of review

Section 300, subdivision (b) authorizes the juvenile court to assume jurisdiction over a child if "[t]he child has suffered, or there is a substantial risk that the child will suffer, serious

⁴ Father does not challenge the juvenile court's dispositional orders.

physical harm or illness, as a result of the failure or inability of his or her parent . . . to adequately supervise or protect the child.”

We review father’s challenge to the sufficiency of the evidence supporting the juvenile court’s jurisdictional orders under the substantial evidence standard. (*In re Alexis E.* (2009) 171 Cal.App.4th 438, 450.) Under that standard, “the issue is whether there is evidence, contradicted or uncontradicted, to support the finding. In making that determination, the reviewing court reviews the record in the light most favorable to the challenged order, resolving conflicts in the evidence in favor of that order, and giving the evidence reasonable inferences. Weighing evidence, assessing credibility, and resolving conflicts in evidence and in the inferences to be drawn from evidence are the domain of the trial court, not the reviewing court. Evidence from a single witness, even a party, can be sufficient to support the trial court’s findings. [Citations.]” (*Id.* at pp. 450-451.)

B. Substantial evidence supports the jurisdictional findings

Substantial evidence supports the finding that father failed to protect minor from mother. The evidence shows that father knew of mother’s inappropriate physical discipline of minor. Father admitted that when he and the family lived together, he saw mother hit minor with her hand “or with whatever she could find” on more than one occasion. At the outset of the case, minor told father he was afraid that mother was going to hit him. Father observed a red mark and a scratch on minor’s face and a bump on the child’s head. Minor’s therapist also informed father that minor had disclosed mother had hit him. Minor reported being afraid of mother because she hit him. Although father initially minimized minor’s injuries, he later admitted that he

should have reported the incident and taken photographs of the child's injuries.

Substantial evidence also supports the finding that father used inappropriate and excessive physical discipline on minor. Father admitted using his hand to strike minor on the mouth, causing the child's nose to bleed. Mother observed a bruise on minor's mouth when the child returned to her home after that incident. She said father admitted hitting minor and stated that he would discipline the child "however he wants." Father expressed no remorse, but minimized the incident, insisting "[i]t was only one time," that minor's nose was "sensitive," and that "the child easily bleeds from the nose." After the incident, father failed to take minor to a scheduled forensic appointment.

We reject father's argument that minor was not at substantial risk of harm at the time of the jurisdictional hearing because father's excessive physical discipline was a one-time incident that occurred six months before the hearing. "In evaluating risk based upon a single episode of endangering conduct, a juvenile court should consider the nature of the conduct and all surrounding circumstances. It should also consider the present circumstances, which might include, among other things evidence of the parent's current understanding of and attitude toward the past conduct that endangered a child, . . . the nature and circumstances of a single incident of harmful or potentially harmful conduct may be sufficient, in a particular case, to establish current risk depending upon present circumstances.' [Citation.]" (*In re John M.* (2013) 217 Cal.App.4th 410, 418-419.)

Here, the nature of father's conduct was deliberate and intentional – hitting his young child in the face, causing minor's

nose to bleed. The circumstances surrounding that incident include mother's physical punishment of minor, minor's stated fear of mother, and father's failure to protect minor from mother. Father expressed no understanding or remorse concerning his own excessive physical punishment of minor. Instead, he minimized his conduct, insisting it was a one-time occurrence and that minor bled easily. Substantial evidence supports the finding that father's conduct placed minor at ongoing risk of harm.

DISPOSITION

The juvenile court's jurisdictional and dispositional orders are affirmed.

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_____, J.
CHAVEZ

We concur:

_____, P. J.
LUI

_____, J.
HOFFSTADT